

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

JESSE LOUIS JOHNSON

Petitioner,

VS.

RICK THALER, Director  
Texas Department of Criminal Justice,  
Correctional Institutions Division

Respondent.

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NO. 3:10-CV-1337-D

**ORDER**

I

After making an independent review of the pleadings, files, and records in this case, and the January 12, 2011 findings and recommendation of the magistrate judge, the court concludes that the findings and recommendation are correct. It is therefore ordered that the findings and recommendation of the magistrate judge are adopted.

II

The March 23, 2011 motion of Daniel K. Johnson for leave to proceed as next friend and further request for extension of time in which to file objections is denied as moot. Petitioner has filed his own objections to the findings and recommendation of the magistrate judge.

III

Considering the record in this case and pursuant to Fed. R. App. P. 22(b), Rule 11(a) of the Rules Governing §§ 2254 and 2255 proceedings, and 28 U.S.C. § 2253(c), the court denies a certificate of appealability. The court adopts and incorporates by reference the magistrate judge's findings, conclusions, and recommendation filed in this case in support of its finding that the

petitioner has failed to show (1) that reasonable jurists would find this court's "assessment of the constitutional claims debatable or wrong," or (2) that reasonable jurists would find "it debatable whether the petition states a valid claim of the denial of a constitutional right" and "debatable whether [this court] was correct in its procedural ruling." *Slack v. McDaniel*, 529 U.S.473, 484 (2000).

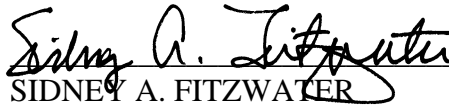
If petitioner files a notice of appeal,

( ) petitioner may proceed *in forma pauperis* on appeal.

(X) petitioner must pay the \$455.00 appellate filing fee or submit a motion to proceed *in forma pauperis*.

**SO ORDERED.**

April 26, 2011.

  
SIDNEY A. FITZWATER  
CHIEF JUDGE